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10/057,265

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William J. Stehouwer

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PRICE HENEVELD COOPER DEWITT & LITTON, LLP

695 KENMOOR, S.E.

P O BOX 2567

GRAND RAPIDS, MI 49501

EXAMINER

MAYES, MELVIN C

ART UNIT

PAPER NUMBER

1734

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/057,265

Applicant(s)

STEHOUWER ET AL.

Examiner

Melvin Curtis Mayes

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 1-10, 17-23 and 26-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-16, 24, 25, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

(1)

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

(2)

Claims 24 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no description of “a plurality of cartons to be labeled” being a part of the apparatus, as now claim in Claim 24.

Claim Rejections - 35 USC § 103

(3)

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

(4)

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faltot 3,488,241 in view of Sugimoto et al. 5,007,340 and Instance 2001/0022213.

Faltot discloses a labeling apparatus comprising: a belt conveyor A for conveying cartons (carton feeding machine); labeling mechanism C for applying labels to the cartons, the labeling mechanism comprising a label hopper on which are mounted a supply of printed labels and gluing mechanism to apply glue to the labels and label applying drum 21 (laminating machine). Faltot does not disclose providing the labeling apparatus with a computer including microprocessor and graphics program, digital printer and cutting machine to cut and stack the printed labels that are mounted in the label hopper.

Sugimoto et al. 5,007,340 teaches that stacked labels are made by feeding a continuous sheet past a printing mechanism and a cutter prior to feeding the cut labels to a sheet stacker to accommodate the labels (col. 12, lines 26-38).

Instance 2001/0022213 teaches that high quality printed labels can be manufactured efficiently and cost effectively and with variable printed images by using a digital printing unit which is controlled by a computer and computer software. The computer input can readily be operated so as to print continually variable information such as alpha numeric characters, bar codes or matrix codes on labels [0008], [0024]-[0027].

It would have been obvious to one of ordinary skill in the art to have modified the labeling apparatus of Faltot by providing a printing mechanism and cutter and stacker (cutting machine), as taught by Sugimoto et al., to form the stack of printed labels that is to subsequently be mounted on the label hopper for applying to the cartons. Providing a printing mechanism,

Art Unit: 1734

cutter and stacker would have been obvious to one of ordinary skill in the art to enable making of the labels from a continuous sheet by printing, cutting and stacking in combination with subsequent labeling of cartons using the printed and stacked labels.

It would have been obvious to one of ordinary skill in the art to have further modified the labeling apparatus of Faltot and Sugimoto et al. as combined by providing the printing mechanism as a digital printer controlled by a computer and computer software (graphics program), as taught by Instance, as used to manufacture high quality printed labels efficiently and cost effectively. Providing a computer and graphics program to control a digital printer would have been obvious to one of ordinary skill in the art to enable the printing of the labels for cartons not only by high quality printing, efficiently and cost effectively, but also to enable the continuous printing of variable information such as alpha numeric characters, bar codes or matrix codes on labels, which information is conventionally used to label cartons.

Regarding Claim 12, limitation with respect to the type of cartons to be labeled does not structurally limit the claimed apparatus, and the apparatus of the references as combined is capable of labeling fiberboard cartons of thickness greater than 18 points.

(5)

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faltot 3,488,241 in view of Sugimoto et al. 5,007,340 and Instance 2001/0022213 as applied to claim 13, and further in view of Hanada et al. 5,922,808.

Hanada et al. teach that hot melt adhesive is used on the manufacture of cartons as well as labels (col. 8, lines 43-51).

Instance further teaches that to improve color fastness and durability of digital printing on the labelstock, a coating apparatus for coating the upper printed surface of the labelstock web with an overprinting varnish is provided [0029].

It would have been obvious to one of ordinary skill in the art to have modified the labeling apparatus of the references as combined by providing the glue for applying to the labels as a hot melt glue, as taught by Hanada et al, as used for labels as well as to manufacture cartons. The use of hot melt glue would have been obvious to one of ordinary skill in the arts of labeling and carton manufacture and sealing.

It would have been obvious to one of ordinary skill in the art to have further modified the labeling apparatus of the references as combined by providing a coating apparatus for a coating the printed side of the continuous label sheet with varnish before cutting into labels, as claimed in Claims 15-16, as taught by Instance, as used to improve color fastness and durability of printing on digitally printed continuous labelstock for making labels.

(6)

Claims 24 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faltot 3,488,241 in view of Sugimoto et al. 5,007,340, Instance 2001/0022213 and Sampson 6,032,782.

Faltot discloses a labeling apparatus comprising: a belt conveyor A for conveying cartons (carton feeding station); labeling mechanism C for applying labels to the cartons, the labeling mechanism comprising a label hopper on which are mounted a supply of printed labels, gluing mechanism to apply glue to the labels and label applying drum 21 (laminating machine) and label smoothing roll 36 to smooth the applied label (smoothing station). Faltot does not disclose providing the labeling apparatus with a computer including microprocessor and graphics program,

Art Unit: 1734

digital printer, cutting machine to cut and stack the printed labels that are mounted in the label hopper or stacking station.

Sugimoto et al. 5,007,340 teaches that stacked labels are made by feeding a continuous sheet past a printing mechanism and a cutter prior to feeding the cut labels to a sheet stacker to accommodate the labels (col. 12, lines 26-38).

Instance 2001/0022213 teaches that high quality printed labels can be manufactured efficiently and cost effectively and with variable printed images by using a digital printing unit which is controlled by a computer and computer software. The computer input can readily be operated so as to print continually variable information such as alphanumeric characters, bar codes or matrix codes on labels. Instance also teaches that to improve color fastness and durability of printing on the labelstock, a coating apparatus for coating the upper printed surface of the labelstock web with an overprinting varnish may be provided [0008], [0024]-[0027], [0029].

Sampson 6,032,782 teaches that labeled cartons are conveyed to a palletizer for label-out stacking of the cartons determined by the sizes of the cartons and the number of rows of cartons desired per pallet (col. 5, lines 46-57).

It would have been obvious to one of ordinary skill in the art to have modified the labeling apparatus of Faltot by providing a printing mechanism and cutter and stacker (finishing machine), as taught by Sugimoto et al., to form the stack of printed labels that is to subsequently be mounted on the label hopper for applying to the cartons. Providing a printing mechanism and cutter and stacker would have been obvious to one of ordinary skill in the art to enable making of

Art Unit: 1734

the labels from a continuous sheet by printing, cutting and stacking in combination with subsequent labeling of cartons using the printed and stacked labels.

It would have been obvious to one of ordinary skill in the art to have further modified the labeling apparatus of Faltot and Sugimoto et al. as combined by providing the printing mechanism as a digital printer controlled by a computer and computer software (graphics program), as taught by Instance, as used to manufacture high quality printed labels efficiently and cost effectively. Providing a computer and graphics program to control a digital printer would have been obvious to one of ordinary skill in the art to enable the printing of the labels for cartons not only by high quality printing, efficiently and cost effectively, but also to enable the continuous printing of variable information such as alpha numeric characters, bar codes or matrix codes on labels, which information is conventionally used to label cartons.

The speed of printing at a rate of up to about 48 feet per minute, as claimed, does not structurally limit the claimed apparatus, and the apparatus as suggested by the combination of references is capable of printing at up 48 feet per minute, as claimed.

It would have been obvious to one of ordinary skill in the art to have further modified the labeling apparatus of the references as combined by providing, as part of the finishing machine, a coating apparatus for a coating the printed side of the label sheet with varnish before cutting, as taught by Instance, as used to improve color fastness and durability of printing on digitally printed continuous labelstock for making labels.

It would have been obvious to one of ordinary skill in the art to have further modified the labeling apparatus of the references as combined by also providing a palletizer (stacking station), as taught by Sampson, to which labeled cartons are conveyed for label-out stacking of the

Art Unit: 1734

cartons based on the sizes of the cartons and the number of rows of cartons desired per pallet. As taught by Sampson, labeled cartons are conventionally conveyed to a palletizer for stacking.

(7)

Claims 25 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faltot 3,488,241 in view of Sugimoto et al. 5,007,340, Instance 2001/0022213 and Sampson 6,032,782 as applied to Claims 24 and 29, and further in view of WO 00/14000.

WO 00/14000 Abstract teaches that a rotary cutter comprising a pair of rotary cutting dies 32, 34 is used to cut panels such as labels from a continuous feed printed strip for stacking (Abstract).

It would have been obvious to one of ordinary skill in the art to have further modified the labeling apparatus of the references as combined by providing the cutter of the finishing machine for cutting labels from the continuous sheet as a pair of rotary cutting dies, as taught by WO 00/14000 Abstract, as known in the art for use to cut labels from a continuous printed strip for subsequent stacking of the cut labels. The use of a pair of rotary dies for cutting the printed labels from the continuous sheet for stacking for placing in the label hopper for applying to the cartons would have been obvious to one of ordinary skill in the art as known means in the label art for cutting printed labels from a continuous fed and printed sheet for making a stack of labels.

Response to Arguments

(8)

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection, applied because of the amendments to the claims.

Conclusion

(9)

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The references disclose applying labels to cartons.

(10)

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin Curtis Mayes whose telephone number is 571-272-1234. The examiner can normally be reached on Mon-Fri 7:30 AM - 4:00 PM.

Art Unit: 1734

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Phillip C. Tucker can be reached on 571-272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Melvin Curtis Mayes
Primary Examiner
Art Unit 1734

MCM
August 2, 2007